

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

GARY S. WERNTZ,

Plaintiff,

vs.

CANADIAN NATIONAL  
RAILROAD

Defendant.

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\* FILED: MAY 29, 2009  
\* 09CV3272  
\* JUDGE DARRAH  
\* MAGISTRATE JUDGE MASON  
\* BR  
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**COMPLAINT**

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COMES NOW the Plaintiff, **Gary S. Werntz** by and through his attorneys, and for this cause of action against the Defendant, **Canadian National Railroad**, a corporation, states as follows:

**COUNT I.**

**1.**

That on or about March 14, 2007, and for some time prior thereto and thereafter, the Defendant Canadian National Railroad was engaged in the business of interstate commerce in and throughout several states of the United States as a common carrier by railroad; and for the purpose thereof did operate and do business in or about Homewood, IL.

2.

That at said time and prior thereto, Plaintiff was employed with the Defendant as a machinist, and was engaged in the performance of his duties as such worker at the time he was caused to be injured on the aforesaid date as hereinafter alleged.

3.

That at said time and prior thereto, Defendant was engaged in interstate commerce as a common carrier by railroad, and all or part of Plaintiff's duties as an employee of the Defendant were in furtherance of interstate commerce and closely, directly, and substantially affected by the same, by reason whereof the rights and liabilities of the parties were governed by the Act of Congress known as the Federal Employers' Liability Act, 45 U.S.C. § 51 et seq.

4.

That on or about March 14, 2007, Plaintiff was engaged in the course of employment with Defendant at or near Homewood, Illinois and was caused to be severely and permanently injured when he tripped over a locomotive air compressor intake manifold. He suffered an injury to his hands, knees, right shoulder and back that was caused, in whole or in part, by the carelessness and negligence of the Defendant.

5.

The Defendant, by and through its duly authorized agents and employees, was then and there guilty of one or more of the following negligent acts or omissions in violation of the Federal Employers' Liability Act:

- (a) Failure to provide Plaintiff with a reasonably safe place to work;
- (b) Failure to provide Plaintiff sufficient man power to perform shop maintenance;
- (c) Failure to provide Plaintiff with reasonably safe methods of work for Plaintiff to perform the task assigned; and
- (d) Failure to properly supervise the work done to allow for Plaintiff's safety.
- (e) Failed to provide Plaintiff with a workplace in compliance with OSHA.

**6.**

That as a result, in whole or in part, of one of the more of the foregoing negligent acts or omissions, Plaintiff sustained severe injuries to his right shoulder and back resulting in disability and which has caused and will cause him in the future to suffer great pain and mental anguish; and he has lost and will in the future lose earnings he otherwise would have earned but for his injury; and he has been and will in the future be compelled to obligate himself for medical aid and attention; and his future earning capacity has been seriously diminished thereby; all to the damage of the Plaintiff in the sum in excess of \$25,000.00.

**7.**

The Plaintiff demands trial by jury.

WHEREFORE, Plaintiff, Gary S. Wertz demands judgment against the Defendant Canadian National Railroad in a sum in excess of \$25,000.00, and for costs of suit. Plaintiff further demands a trial by jury.

Respectfully submitted,

/s James A. Ebert  
James A. Ebert

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